

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDRE NICHOLS and DANIEL MORAES,

Plaintiffs,

- against -

MICHAEL T. MAHONEY, EMC CONTRACTING
INC., EMC NEW YORK CONTRACTING, and
EMC of NEW YORK, INC.

Defendants.

08-CV-3306 (CM)(DCF)

NOTICE OF DEFENDANTS'MOTION TO DISMISS

PLEASE TAKE NOTICE, that upon the annexed affirmation of George L. Santangelo, Esq., duly affirmed the 2d day of July, 2008, the accompanying memorandum of law and all prior proceedings had herein, the defendants Michael T. Mahoney, EMC Contracting, Inc., EMC New York Contracting and EMC of New York, Inc. will move this Court at the Courthouse located at 500 Pearl Street, New York, New York, at a date and time to be designated by the Court for an order (A) pursuant to Fed. R. Civ. Pro. 12(b)(6) dismissing the complaint for failure to state a cause of action and absence of subject matter jurisdiction: (B) pursuant to the Court's inherent and equitable powers for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 2, 2008

Respectfully submitted,

LAW OFFICES
GEORGE L. SANTANGELO



George L. Santangelo (GS3474)
111 Broadway, Suite 1706
New York, New York 10006
*Attorney for Defendants Michael T. Mahoney, EMC
Contracting, Inc., EMC New York Contracting and
EMC of New York, Inc.*

TO:

Honorable Colleen McMahon
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007

Gary Silverman, Esq.
O'Dwyer & Bernstein, LLP
52 Duane Street, 5th Floor
New York, NY 10007

Joy Kim Mele
O'Dwyer and Bernstein, L.L.P.
52 Duane Street
New York, NY 10007

Attorneys for Plaintiffs